

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

Filed: December 15, 2020

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MALLYSSA DAY,

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No. 20-70V

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Petitioner,

\*

Special Master Sanders

v.

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SECRETARY OF HEALTH

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Vaccine Rule 10(d)(3);

AND HUMAN SERVICES,

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42 U.S.C. § 300aa-21(b);

\*

Order Concluding Proceedings

Respondent.

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*Charles E. Trainor*, Desmond & Rand, Westbrook, ME, for Petitioner.

*Christine M. Becer*, United States Department of Justice, Washington, DC, for Respondent.

### **ORDER CONCLUDING PROCEEDINGS<sup>1</sup>**

The petition in this matter was filed on January 23, 2020. ECF No. 1. Petitioner alleged that the influenza (“flu”) vaccine she received on January 23, 2017, caused her to develop bilateral carpal tunnel syndrome. *Id.* at 1.

On September 17, 2020, Respondent submitted his Rule 4(c) report. ECF No. 15. Respondent argued that the Court deny compensation and dismiss this case because Petitioner had not submitted sufficient evidence to support her claim. *Id.* at 5.

On September 28, 2020, I issued a formal notice pursuant to 42 U.S.C. § 3000aa-12(d)(3)(A)(ii), advising Petitioner that the statutory 240-day time period for the issuance of a decision had expired and notifying Petitioner that she may withdraw the petition under § 300aa-21(b) or choose to remain in the Vaccine Program. *See* ECF No. 16.

On October 22, 2020, Petitioner filed a notice of intent to withdraw petition in which she stated that, pursuant to 42 U.S.C. § 300aa-21(b), she was withdrawing her petition. *See* ECF No. 18.

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<sup>1</sup> Although this Order has been formally designated “unpublished,” it will nevertheless be posted on the Court of Federal Claims’s website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). **This means the Order will be available to anyone with access to the internet.** However, the parties may object to the Order’s inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the whole Order will be available to the public. *Id.*

Based on Petitioner's notice, it appears that Petitioner is electing to exercise her right under § 300aa-21(b) to withdraw her petition following the Court's failure to issue a decision within 240 days of the filing of said petition. Therefore, Petitioner's request to withdraw her petition is granted.

Accordingly, this Order hereby notifies the Clerk of Court that proceedings "on the merits" of this petition are now concluded, but no judgment "on the merits" should be entered by the Clerk's Office.

**IT IS SO ORDERED.**

**s/ Herbrina D. Sanders**  
Herbrina D. Sanders  
Special Master